

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lesley Henry	Team: Team # 5	CCRB Case #: 200918900	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 12/11/2009 2:09 AM	Location of Incident: Second Avenue and East Houston Street and the Transit Bureau District 4 stationhouse	18 Mo. SOL 6/11/2011	Precinct: 09
Date/Time CV Reported Fri, 12/11/2009 3:05 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 12/11/2009 3:05 AM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Luis Castillo	20688	929853	TB DT04
2. LT Vito Labella	00000	909807	TB DT04
3. An officer			TB DT04
4. Officers			TB DT04

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM George Xarhoulakos	11942	941187	TB DT04
2. POF Diana Vasquez	01699	945077	TB DT04
3. POM James Photos	13576	930957	TB DT04
4. POM Jermaine Matos	20632	930667	TB H/O
5. POM Nathan Brown	21288	934540	TB H/O

Officer(s)	Allegation	Investigator Recommendation
A.POM Luis Castillo	Abuse: At Second Avenue and East Houston Street in Manhattan, PO Luis Castillo refused to provide his shield number to § 87(2)(b)	
B.LT Vito Labella	Force: At the Transit Bureau District 4 stationhouse, Lt. Vito Labella used physical force against § 87(2)(b)	
C. Officers	Force: At the Transit Bureau District 4 stationhouse, Officers used physical force against § 87(2)(b)	
D. An officer	Discourtesy: At the Transit Bureau District 4 stationhouse, an officer spoke obscenely and/or rudely to § 87(2)(b)	

### Case Summary

On December 11, 2009, § 87(2)(b) and § 87(2)(b) filed individual complaints with the CCRB via the online system (encl. 3A-C and 5A-D). IAB log 09-62749 was filed by § 87(2)(b) in person at the command (encl. 4A-B).

On December 11, 2009, at approximately 2:09 a.m., Officers Luis Castillo and George Xarhoulakos of the Transit Bureau District 4 command arrested § 87(2)(b) and § 87(2)(b) at the Second Avenue and East Houston Street train station in Manhattan. The following allegations resulted:

- **Allegation A – Abuse of Authority:** At Second Avenue and East Houston Street in Manhattan, PO Luis Castillo refused to provide his shield number to § 87(2)(b) § 87(2)(b), § 87(2)(g) § 87(2)(b)
- **Allegation B – Force:** At the Transit Bureau District 4 stationhouse, Lt. Vito Labella used physical force against § 87(2)(b) § 87(2)(g) § 87(2)(b)
- **Allegation C – Force:** At the Transit Bureau District 4 stationhouse, officers used physical force against § 87(2)(b) § 87(2)(g) § 87(2)(b)
- **Allegation D – Discourtesy:** At the Transit Bureau District 4 stationhouse, an officer spoke obscenely and/or rudely to § 87(2)(b) § 87(2)(g) § 87(2)(b)

### Results of Investigation

#### Civilian Statement(s)

**Complainant:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) old white male without any prior relationship with § 87(2)(b) and/or § 87(2)(b). § 87(2)(b) § 87(2)(b)

#### Initial complaint/Telephone Statement

§ 87(2)(b) provided PO Luis Castillo's correct shield number on the initial email complaint form (encl. 3A-C). § 87(2)(b), § 87(2)(g) § 87(2)(b)

#### CCRB Testimony

On June 29, 2010, the CCRB received a notarized statement from § 87(2)(b) (encl. 17A-C). On December 11, 2009, at approximately 2:09 a.m., § 87(2)(b) observed a male and female, identified through investigation as § 87(2)(b) and § 87(2)(b) being placed under arrest on the upper platform of the Second Avenue and East Houston Street train station in Manhattan. An officer, whom § 87(2)(b) described as a white male, 6'2" tall, 185 lbs, with sandy blond hair, and in his mid-twenties, handcuffed § 87(2)(b) with the assistance of another officer, whom § 87(2)(b) described as a Hispanic male, 5'8"-5'10" tall, 185 lbs, with black hair and in his late twenties. These officers were identified through investigation as Officers Luis Castillo and George Xarhoulakos, respectively.

Officers Castillo and Xarhoulakos allegedly slammed § 87(2)(b) into a gate as she was placed in handcuffs, and the officers lifted her arms high behind her back in an upward motion causing her pain. § 87(2)(b) requested the shield numbers of both officers and PO Castillo told PO Xarhoulakos that they did not have to provide their information. § 87(2)(b) added during his sworn statement that PO Castillo covered his badge with his memo book. Against PO Castillo's advice, PO Xarhoulakos provided his shield number to § 87(2)(b) who thereafter left the train station.

During his telephone statement and in a follow-up phone call placed on June 29, 2010, § 87(2)(b) could not explain how he was able to provide PO Castillo's correct shield number in his initial complaint and he denied being informed of either officer's name and/or shield number by § 87(2)(b).

#### **IAB Log 09-62749**

Lt. Vito Labella reported to the Internal Affairs Bureau that § 87(2)(b) removed her hands from her handcuffs inside of the stationhouse and was subsequently "taken down to the floor" by himself and PO Vasquez. § 87(2)(b) complained of pain to her back, neck and wrist; however, he did not observe any apparent injuries. § 87(2)(b) was interviewed by Captain Peter Andrea of the Internal Affairs Bureau who stated that § 87(2)(b) did not make any allegations of excessive physical force and suggested that the case be closed (encl. 4A-B).

#### **Complainant/Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) old Hispanic female, 5'5" tall, 162 lbs, with black hair and brown eyes.

#### **Initial Complaint**

§ 87(2)(b) filed a complaint with the CCRB via the online system. § 87(2)(b)'s online complaint was consistent with her sworn testimony (encl. 5A-D).

#### **CCRB Testimony**

On December 21, 2009, § 87(2)(b) was interviewed at the CCRB (encl. 7A-C). On December 11, 2009, at approximately 1:30 a.m., § 87(2)(b) and her boyfriend, § 87(2)(b) left a pizzeria after § 87(2)(b)'s wallet had been stolen; § 87(2)(b) had her identification and bank card in her pants' pocket. At approximately 2:00 a.m., § 87(2)(b) and § 87(2)(b) entered the Second Avenue and East Houston Street train station in Manhattan and entered the turnstile together using one fare. They were subsequently approached by two uniformed officers. § 87(2)(b) referred to one officer as "PO Castello," whom she described as a Hispanic male, 5'8" tall, heavy set, and balding, and the other as "PO Vasquez," whom she described as a Hispanic male, 5'10"

tall, with spiky brown hair and a slim build. The investigation identified the officers as PO Luis Castillo and PO George Xarhoulakos, respectively.

PO Castillo requested § 87(2)(b)'s identification and she provided her school identification. PO Castillo informed § 87(2)(b) she was under arrest and handcuffed her to a gate. § 87(2)(b) said, "This is fucking unnecessary." A male civilian, whom § 87(2)(b) did not know, asked the officers for their name and shield numbers; however, they did not provide the information. § 87(2)(b) observed the officers' shield numbers from their uniform and provided the shield numbers aloud to the unknown civilian.

§ 87(2)(b) and § 87(2)(b) were transported to the Transit Bureau District 4 command where § 87(2)(b) felt pain in her arms and wrists, and she removed one of her hands from the handcuffs. The desk officer, whom § 87(2)(b) referred to as "Lt. Ron Labella" and whom she described as an "Italian" male, 5'6" tall, heavy set, and wearing a white shirt in uniform, pulled her hair and tackled her to the ground, placing her back into handcuffs with the assistance of two additional officers. § 87(2)(b) described one of these officers as a black male, 5'10" tall, well built and wearing a uniform and the other as a Hispanic female, 5'10" tall, heavy set, with dark hair worn in a bun. The desk officer was identified as Lt. Vito Labella, and the two officers who assisted him were identified through investigation as PO Diana Vasquez and PO Nathan Brown. PO Vasquez and PO Brown grabbed § 87(2)(b)'s arms and placed pressure on her back to keep her on the ground. § 87(2)(b) sustained lumps on the right side of her head where her hair was pulled and cuts and bruises to her right leg.

PO Vasquez patted § 87(2)(b)'s hip area and removed her jacket. She put her hand underneath § 87(2)(b)'s shirt, shifted her bra from left to right and exposed § 87(2)(b)'s stomach and the bottom of her breast. Her handcuffs were removed and she was told to remove her shoes and socks. § 87(2)(b) complied and her clothing was replaced after approximately two minutes. Approximately five male officers stared at § 87(2)(b) as she was searched.

§ 87(2)(b) requested medical assistance because she felt her heart racing. EMS personnel arrived and transferred her to § 87(2)(b) where she was prescribed Ibuprofen for pain relief. § 87(2)(b) returned to the stationhouse, was fingerprinted and placed inside of a holding cell. § 87(2)(b) noticed that her bank cards were missing and she was uncertain whether her bank cards had also been stolen earlier that day. PO Castillo informed the Internal Affairs Bureau that she alleged the officers stole her bank cards and IAB officers arrived and interviewed her; however, § 87(2)(b) clarified that she did not make such allegation.

**Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) old Hispanic male, 5'5" tall, 130 lbs, with black hair and brown eyes.

**Telephone statement**

§ 87(2)(b), § 87(2)(g)

**CCRB Testimony**

On December 21, 2009, § 87(2)(b) was interviewed at the CCRB (encl. 12A-B). On December 11, 2009, § 87(2)(b) and § 87(2)(b) were stopped by police officers after they entered

the train station using one fare. An officer identified through investigation as PO Castillo grabbed § 87(2)(b) and an officer identified through investigation as PO Xarhoulakos grabbed § 87(2)(b). § 87(2)(b) and § 87(2)(b) were handcuffed to a gate and the officers called for backup. An unknown civilian asked the officers for their name and shield numbers and he was told to leave the area. § 87(2)(b) looked at the officers' badges and provided the individual with the officers' shield numbers before he was removed to the stationhouse.

At the stationhouse, Lt. Labella jumped on top of § 87(2)(b) and brought her to the ground. § 87(2)(b) attempted to approach § 87(2)(b) but he was grabbed and dragged into a cell by several officers whom he did not recall. After approximately ten minutes, a black male officer, 5'8" tall, with short naturally curly hair, a fit build and approximately 30 years old, walked past § 87(2)(b) and said, "You need to control your bitch." He then stated, "She has big titties, I would fuck her," in reference to § 87(2)(b).

### **Photographic Array**

On September 1, 2010, § 87(2)(b) was shown a photographic array with PO Brown in slot 1 and fillers in slots 2 through 6. He identified a filler in slot 3 as the officer who used discourteous language towards him. The MAS unit could not provide an array of PO Matos due to the difference in color of his background from all other photographs. Therefore, § 87(2)(b) was shown two single photos of Officers Brown and Jermaine Matos. § 87(2)(b) did not recognize PO Brown. § 87(2)(b) recognized PO Matos as being present at the command; however, he did not recall anything specific about his conduct (encl. 15A-D).

### **NYPD Statement(s):**

#### **Subject Officer: PO LUIS CASTILLO**

- *PO Luis Castillo is a § 87(2)(b) old Hispanic male, 5'6" tall, 230 lbs, with black hair and brown eyes. On December 11, 2009, he worked in uniform with PO George Xarhoulakos from 12:01 a.m. until 7:18 p.m. during an overtime tour assigned to patrol within the Second Avenue train line.*

#### **Memo Book**

PO Castillo's memo book entries indicate that at approximately 2:09 a.m., he observed § 87(2)(b) and § 87(2)(b) "double up" and enter the train station unlawfully paying only one fare and they were arrested. § 87(2)(b) sustained injuries to her wrist, arms and legs by pulling away from the officers. At 2:45 a.m., § 87(2)(b) removed her hands from the handcuffs. At § 87(2)(b), § 87(2)(b) was transported to § 87(2)(b) (encl. 18A-F).

### **Complaint Report**

§ 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### **Arrest Report(s)**

The arrest report indicates that § 87(2)(b) and § 87(2)(b) were charged § 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) The reports indicate that force was not used (encl. 20A-C and 21).

### **CCRB Testimony**

PO Castillo was interviewed by the CCRB on May 6, 2010 (encl. 22A-B). On December 11, 2009, Officers Castillo and Xarhoulakos observed § 87(2)(b) and § 87(2)(b) unlawfully enter the train station. PO Xarhoulakos requested § 87(2)(b)'s identification and she became combative and stated, "This is bullshit. Where were you when I needed you?" PO Xarhoulakos asked § 87(2)(b) how he could help her and she stated she did not want to speak with a "rookie cop." PO Xarhoulakos told her to speak with PO Castillo; however, § 87(2)(b) refused to provide either officer with any information or with her identification. PO Castillo requested § 87(2)(b) identification and he said, "Fuck you. I don't need to give you anything." PO Castillo informed § 87(2)(b) and § 87(2)(b) that if they did not provide identification they would be arrested.

Officers Castillo and Xarhoulakos grabbed § 87(2)(b) by his arms and he continued to curse at the officers, and move his body and arms from left to right. § 87(2)(b) jumped on Officers Castillo and Xarhoulakos' backs and prevented the officers from handcuffing § 87(2)(b). Officers Castillo and Xarhoulakos grabbed § 87(2)(b) by her arms and wrists, placed them behind her back and placed her into handcuffs. § 87(2)(b) then jumped on Officers Castillo and Xarhoulakos' backs as they handcuffed § 87(2)(b). PO Xarhoulakos placed § 87(2)(b) in handcuffs and PO Castillo secured § 87(2)(b) and § 87(2)(b)'s handcuffs to a gate. PO Castillo loosened § 87(2)(b)'s handcuffs because she complained of pain. He did not observe any injury to § 87(2)(b)'s wrist.

§ 87(2)(b) whom PO Castillo described as a tall male, possibly black, requested both Officers Castillo and Xarhoulakos' shield numbers more than once; however, PO Castillo and PO Xarhoulakos were physically engaged with § 87(2)(b) and § 87(2)(b). PO Castillo showed § 87(2)(b) his shield; however, he did not repeat his shield number aloud. PO Castillo did not recall PO Xarhoulakos having provided his shield number aloud to § 87(2)(b). PO Castillo did not recall whether § 87(2)(b) provided his shield number or PO Xarhoulakos' shield number aloud to § 87(2)(b).

PO Castillo radioed for a transport unit and Officers Diana Vasquez and James Photos arrived, and transported § 87(2)(b) and § 87(2)(b) to the command where Lt. Labella was at the front desk. § 87(2)(b) removed one of her hands from the handcuffs and pushed PO Vasquez away from her. Lt. Labella ran from behind the desk towards § 87(2)(b) and he and PO Vasquez brought § 87(2)(b) to the ground and placed her back into handcuffs. PO Castillo did not observe PO Vasquez search § 87(2)(b).

PO Castillo grabbed § 87(2)(b) by the handcuffs and placed him inside of a holding cell to prevent him from interfering with § 87(2)(b) and the officers. PO Castillo did not recall whether § 87(2)(b) was dragged. PO Castillo did not hear any officer state, "You need to control your bitch," or "Your girl has big titties, I would fuck her."

### **Subject Officer: Lt. VITO LABELLA**

- *Lt. Vito Labella is a § 87(2)(b) old white male, 5'5" tall, 191 lbs, with brown hair and eyes. On December 11, 2009, Lt. Labella worked from 12:00 a.m. to 7:45 a.m. in uniform assigned to the front desk. PO John Nunez was assigned as the assistant desk officer.*

### **Memo Book**

Lt. Labella did not have any memo book entries related to the incident (encl. 23A-B).

### **CCRB Testimony**

Lt. Labella was interviewed at the CCRB on May 19, 2010 (encl. 24A-B). On December 11, 2009, at approximately 2:45 a.m., PO Castillo arrived at the District 4 command with § 87(2)(b) and § 87(2)(b) under arrest. Lt. Labella requested PO Vasquez to search § 87(2)(b) at the front desk. PO Vasquez patted the on top and underneath § 87(2)(b)'s shirt and from the top of her shirt, she shook § 87(2)(b)'s bra from left to right. Lt. Labella did not observe PO Vasquez expose § 87(2)(b)'s bra or breasts. § 87(2)(b) became argumentative and complained about her arrest. § 87(2)(b) pointed her right hand in PO Vasquez's face and Lt. Labella observed the handcuffs dangling from her right wrist and determined she had removed one hand from the cuffs. PO Vasquez instructed § 87(2)(b) to calm down and she did not comply. Lt. Labella grabbed § 87(2)(b) by her hair and left arm, and swiped her legs from underneath her body and brought her to the ground. The area was small and Lt. Labella took such action for his safety and the safety of his officers.

PO Brown from the Homeless Outreach Unit assisted Lt. Labella in bringing § 87(2)(b) to the ground and placing her again into the handcuffs; however, Lt. Labella did not recall PO Brown's exact actions. He did not recall PO Vasquez assisting them. § 87(2)(b) stated she felt pain to her neck and back; however, she did not appear to be injured. Lt. Labella called for EMS to respond and § 87(2)(b) informed them that she sustained abrasions on an unrecalled location.

§ 87(2)(b) was nearby and an unidentified officer shouted for § 87(2)(b) to be removed to the cells. Lt. Labella observed more than one unidentified officer walk § 87(2)(b) into a holding cell. § 87(2)(b) was not dragged. Lt. Labella remained at the front desk and could see § 87(2)(b) and § 87(2)(b) inside of the holding cells on the video monitors; which do not have audio capability.

### **Witness Officer: PO DIANA VASQUEZ**

- *PO Vasquez is a § 87(2)(b)-old Hispanic female, 5'5" tall, weighs 190 lbs., with black hair and brown eyes. On December 11, 2010, PO Vasquez worked from 11:15 p.m. to 7:50 a.m. the following day. She was assigned to sector 4B, responsible for retrieving perpetrators under arrest and transporting them to the command. She worked in uniform, wore her hair in a bun, and was assigned to marked prisoner van 5926, with PO James Photos.*

### **Memo Book**

PO Vasquez's memo book entries indicated that at 2:09 a.m., she responded to Second Avenue train station to transport two officers and two defendants back to Transit Bureau District 4. At 2:40 a.m., PO Vasquez searched § 87(2)(b) § 87(2)(g)

### **CCRB Testimony**

On July 27, 2010, PO Diana Vasquez was interviewed at the CCRB (encl. 26A-C). § 87(2)(g)

On December 11, 2009, at approximately 2:09 a.m., PO Vasquez and PO Photos responded to a call to transport § 87(2)(b) and § 87(2)(b) to the command after they had been placed in handcuffs. PO Vasquez did not see a white male civilian at the location and she did not hear anyone request the names and shield numbers of PO Castillo or PO Xarhoulakos.

§ 87(2)(b) and § 87(2)(b) were transported to the stationhouse, where § 87(2)(b) was searched first and removed to the back for arrest processing. § 87(2)(b) protested being searched and said that she was innocent and did not want to be touched. § 87(2)(b) removed her right hand from the handcuffs and she punched, kicked and screamed that she did not want to be handcuffed.

PO Vasquez held § 87(2)(b)'s torso and sides to bring her to the floor. § 87(2)(b) landed on her stomach; no other officer assisted with this. PO Vasquez did not witness Lt. Labella pull § 87(2)(b)'s hair and shoulder to bring her to the ground and she did not recall his actions. PO Brown assisted by removing § 87(2)(b)'s hand from underneath her body and PO Vasquez placed her back into handcuffs. PO Vasquez did not observe any officer drag § 87(2)(b) on the floor.

PO Vasquez searched § 87(2)(b) on the floor and executed a standard brassiere search by touching the lining wires of the brassiere and the center of § 87(2)(b)'s chest from the outside of her shirt. PO Vasquez did not lift § 87(2)(b)'s shirt. § 87(2)(b) complained that her shirt was rising and PO Vasquez observed the shirt near § 87(2)(b)'s waist level. PO Brown and an officer whom PO Vasquez did not recall were present, but they did not make any comments.

PO Vasquez escorted § 87(2)(b) to § 87(2)(b). § 87(2)(b) was prescribed Motrin for her leg pain and discharged into police custody. PO Vasquez and § 87(2)(b) returned to the command and § 87(2)(b) was placed in the holding cell next to § 87(2)(b). PO Castillo was nearby processing § 87(2)(b) arrest. PO Vasquez did not hear any discourteous statements.

**Witness Officer: PO NATHAN BROWN**

- PO Brown is a § 87(2)(b) old black male, 6'4" tall, 270 lbs, with black curly hair and brown eyes. On December 11, 2009, PO Brown worked in uniform from 10:30 p.m. – 6:05 a.m. assigned to Homeless Outreach with PO Jermaine Matos.

**Memo Book**

PO Brown's memo book entries indicate that at 2:55 a.m., § 87(2)(b) was searched at the front desk of the District 4 command and she removed her handcuffs and flailed her arms. PO Brown assisted in placing § 87(2)(b) back into handcuffs and noted that she was emotionally disturbed (encl. 29A-B).

**CCRB Testimony**

PO Nathan Brown was interviewed at the CCRB on June 24, 2010 (encl. 30A-B). On December 11, 2010, PO Brown was at the District 4 command because PO Matos had made an arrest. He observed officers enter with § 87(2)(b) and § 87(2)(b). PO Vasquez searched § 87(2)(b) at the front desk. PO Brown did not see § 87(2)(b)'s breasts or stomach. § 87(2)(b) removed her hand from the handcuffs, flailed her arms and behaved erratically. PO Brown did not observe Lt. Labella grab § 87(2)(b) by the hair and/or bring her to the ground. PO Brown did not recall how § 87(2)(b) came into contact with the ground. While on the ground, § 87(2)(b) continued to resist and PO Brown assisted a number of officers place § 87(2)(b) back into handcuffs by grabbing § 87(2)(b)'s arms and placing them behind her back. PO Brown did not observe any officer drag § 87(2)(b) into the holding cells. PO Brown denied telling § 87(2)(b) "You need



to control your bitch” or “Your girl has big titties, I would fuck her.” PO Brown also did not hear these statements made by any other officer.

**Witness Officer: PO JERMAINE MATOS**

- *PO Matos is a § 87(2)(b) old black male, 6’0” tall, 185 lbs, with a shaven bald head and brown eyes. PO Matos worked in uniform from 10:30 p.m. to 6:05 a.m. with PO Brown assigned to Homeless Outreach.*

**Memo Book**

PO Matos did not have any memo book entries regarding the incident (encl. 31A-B).

**CCRB Testimony**

PO Jermaine Matos was interviewed at the CCRB on June 24, 2010 (encl. 32A-B). On December 11, 2009, at approximately 2:30 a.m., PO Matos arrested § 87(2)(b) and he arrived at District 4 command for arrest processing at 2:50 a.m. PO Matos entered the command with PO Brown and observed a chaotic situation. PO Matos was told to stand aside with his prisoner as approximately four unidentified officers and PO Brown placed § 87(2)(b) in handcuffs on the ground. PO Matos did not observe Lt. Labella take § 87(2)(b) to the ground. PO Matos did not observe any officer search § 87(2)(b) whether before or after she was on the ground. PO Matos did not observe any officers drag § 87(2)(b) into a holding cell. PO Matos denied telling § 87(2)(b) “You need to control your bitch” or “Your girl has big titties, I would fuck her.” PO Matos did not interact with anyone at the location other than his arrested prisoner.

**Medical Records**

**FDNY Pre-hospital Care Report**

On § 87(2)(b), § 87(2)(b) complained of pain to her wrist, abdomen and lower leg. She alleged she was thrown to the ground. § 87(2)(b) denied having any neck and/or back pain (encl. 33A-B).

§ 87(2)(b)

On § 87(2)(b), § 87(2)(b) entered § 87(2)(b) in police custody. She complained of pain in her wrist and right leg. She requested an asthma pump due to anxiety. § 87(2)(b) was treated with albuterol for her breathing and Motrin for pain relief (encl. 34A-C).

§ 87(2)(b)

On § 87(2)(b), § 87(2)(b) was treated as a walk-in patient in the emergency room. § 87(2)(b) complained of pain in her legs and arms after being shoved into a fence during her arrest (encl. 35A-C).

**NYPD Document(s)**

**Investigation of OG Communication Referral 09-62749**

§ 87(2)(b)s complaint that “the cops [were] abusing [her]” was investigated by Captain Bruce Donach of Transit District 4. § 87(2)(b) was interviewed by High Alert Captain Ahmad Alli who noted that she appeared intoxicated. § 87(2)(b) admitted to struggling with PO Vasquez; however, she believed Lt. Labella should not have become involved because she and PO Vasquez are both female. It was determined that the force used to re-handcuff § 87(2)(b) by the officers was necessary and the case was closed as exonerated (encl. 36A-E).

### **Transit District 4 roll call**

The roll call indicates that Lt. Labella was assigned to the front desk. Officers Castillo and Xarhoulakos were assigned to the Second Avenue F line. Officers Vasquez and Photos were assigned to Broadway/Lafayette B, D, F and Q line (encl. 37A-G).

### **Command Log**

The command log indicates that § 87(2)(b) and § 87(2)(b) entered the command at 2:45 a.m. § 87(2)(b) was charged with theft of services, resisting arrest and disorderly conduct. § 87(2)(b)'s mental status was noted as intoxicated. The log indicates that § 87(2)(b) was charged § 87(2)(a) 160.50. Her mental status was noted as intoxicated. The command log also indicates that PO Matos' arrest was written into the log at 2:50 a.m. immediately following § 87(2)(b) and § 87(2)(b)'s arrest entry (encl. 38A-B).

### **Other Evidence**

#### **Photographs**

On December 16, 2009, § 87(2)(b) took photographs of § 87(2)(b) with her cell phone and she provided copies to the CCRB by email on January 25, 2010. The photos depict a cut and bruise on her right leg and redness and slight swelling to her wrists (encl. 8A-B).

### **Summons/Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]

### **Status of Civil Proceedings**

- As of December 14, 2010, § 87(2)(b) and/or § 87(2)(b) have not filed a Notice of Claim against the City of New York with regard to the incident (encl. 39).

### **Civilian(s) Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]

### **Civilian(s) CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b). It is also the first CCRB complaint involving § 87(2)(b) and/or § 87(2)(b) (encl. 2A-C).

### **Subject Officer(s) CCRB History**

- PO Castillo has been a member of the service for 8 years and there are no substantiated CCRB allegations against him (encl. 1A).
- Lt. Labella has been a member of the service for 24 years and there are no substantiated CCRB allegations against him (encl. 1B).

### **Conclusion**

### **Identification of Subject Officer(s)**

PO Castillo and PO Xarhoulakos' shield numbers were provided in the initial complaint filed by § 87(2)(b) § 87(2)(b), § 87(2)(g)

§ 87(2)(g) . § 87(2)(b), § 87(2)(g)  
Lt. Labella was identified by name  
by § 87(2)(b) § 87(2)(b), § 87(2)(g)

### **Allegations Not Pleaded**

It is undisputed that § 87(2)(b) and § 87(2)(b) did not pay two fares prior to entering the train station; § 87(2)(g) .  
§ 87(2)(b) alleged that excessive physical force was used against § 87(2)(b) and § 87(2)(b) at the train station; however, neither § 87(2)(b) nor § 87(2)(b) complained of excessive physical force being used against them at their arrest location. § 87(2)(b), § 87(2)(g)

### **Investigative Findings and Recommendations**

#### **Allegation A – Abuse: At Second Avenue and East Houston Street in Manhattan, PO Luis Castillo refused to provide his shield number to § 87(2)(b)**

It is undisputed that § 87(2)(b) requested PO Castillo's shield number and that PO Castillo did not provide § 87(2)(b) with his number. It is also undisputed that § 87(2)(b) obtained PO Castillo's shield number; § 87(2)(g)  
§ 87(2)(b) PO Castillo stated that he had been physically engaged with § 87(2)(b) and § 87(2)(b) at the time § 87(2)(b) requested his information and that he could not provide his shield at that time. § 87(2)(b) and § 87(2)(b) both alleged that § 87(2)(b) was provided with the shield number by § 87(2)(b) who viewed and read the numbers aloud from PO Castillo's badge. § 87(2)(b) did not recall providing the shield number to the CCRB during his initial complaint and he could not determine how he obtained the correct shield number. § 87(2)(g)

#### **Allegation B – Force: At the Transit Bureau District 4 stationhouse, Lt. Vito Labella used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) removed one of her hands from the handcuffs and Lt. Labella used physical force to bring her to the ground and place her back into handcuffs. § 87(2)(b), § 87(2)(g)  
Lt. Labella described grabbing § 87(2)(b) by the hair and sweeping underneath her feet to bring her to the ground. According to Patrol Guide Procedure 203-11, "Only the amount of force necessary to overcome resistance will be used to effect an arrest." § 87(2)(b), § 87(2)(g)

#### **Allegation D – Force: At the Transit Bureau District 4 stationhouse, officers used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that he was dragged into a holding cell when he attempted to help § 87(2)(b) after she had been taken to the ground by Lt. Labella. § 87(2)(b) did not see which officers took this action. Lt. Labella did not recall any force being used against § 87(2)(b) at that time and described him as walking willingly into the holding cell. PO Castillo recalled removing § 87(2)(b) from the front of the command; however, he did not recall whether he had been assisted or whether § 87(2)(b) resisted being removed. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation E – Discourtesy: At the Transit Bureau District 4 stationhouse, an officer spoke obscenely and/or rudely to § 87(2)(b):**

§ 87(2)(b) alleged that a black male officer spoke obscenely towards him at the Transit District 4 command. It was determined through officer testimony and police documentation that Officers Brown and Matos were present at the command during the incident. On September 1, 2010, § 87(2)(b) viewed a photographic array and single photographs of Officers Brown and/or Matos; however, § 87(2)(b) identified a filler on the array as the subject officer and failed to attribute the allegation to either Officer Brown or Matos. § 87(2)(g)

§ 87(2)(b)

Team: \_\_\_\_\_

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Investigator: \_\_\_\_\_  
Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Supervisor: \_\_\_\_\_  
Title/Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Reviewer: \_\_\_\_\_  
Title/Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Reviewer: \_\_\_\_\_  
Title/Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_